



Queensland University of Technology
Brisbane Australia

This is the author's version of a work that was submitted/accepted for publication in the following source:

Miller, Evonne & Buys, Laurie (2012) Making a case for social impact assessment in urban development : social impacts and legal disputes in Queensland, Australia. In *Journal of Procedia - Social and Behavioral Sciences (Elsevier)*, Elsevier, Jakarta, Indonesia, pp. 285-292.

This file was downloaded from: <http://eprints.qut.edu.au/55874/>

© Copyright 2012 Elsevier

Notice: *Changes introduced as a result of publishing processes such as copy-editing and formatting may not be reflected in this document. For a definitive version of this work, please refer to the published source:*

<http://dx.doi.org/10.1016/j.sbspro.2012.11.124>



International Congress on Interdisciplinary Business and Social Science 2012
(ICIBSoS 2012)

Making a case for social impact assessment in urban development: Social impacts and legal disputes in Queensland, Australia

Evonne Miller & Laurie Buys

Queensland University of Technology, 2 George St, Brisbane, 4001, Australia

Abstract

Urban land use planning and policy decisions are often contested, with the multiple stakeholders (business, developers, residents, policymakers and the wider community) frequently holding opposing viewpoints about the issues and best solution. In recent years, however, the participatory process of social impact assessment (SIA) has received significant attention as a way to mitigate conflict, facilitating negotiation and conflict resolution. This paper examines how social impacts have informed development appeals in Australia, focussing on ten cases from the Queensland Planning and Environment Court (QPEC). Half are appeals from community members (typically neighbours) wanting to oppose approvals and half from organisations appealing against City Councils' decisions to deny their development applications. While legal challenges do not necessarily reflect attitudes and practices, they provide a means to begin to assess how social impacts (although not often explicitly defined as such) inform development related disputes. Based on the nature and outcomes of 10 QPEC cases, we argue that many legal cases could have been avoided if SIA had been undertaken appropriately. First, the issues in each case are clearly social, incorporating impacts on amenity, the character of an area, the needs of different social groups, perceptions of risk and a range of other social issues. Second, the outcomes and recommendations from each case, such as negotiating agreements, modifying plans and accommodating community concerns would have been equally served thorough SIA. Our argument is that engagement at an early stage, utilising SIA, could have likely achieved the same result in a less adversarial and much less expensive and time-consuming environment than a legal case.

© 2012 Published by Elsevier Ltd. Selection and/or peer-review under responsibility of ICIBSoS

Keywords: social impact; development assessment; legal disputes; amenity; urban development, planning

1. Urban land-use planning – politics, conflict and process

A key goal of urban land-use planning and policy is to ensure the final development and use of the land is in the general ‘public interest’ and all views are taken into account. The reality, however, is that the process and decisions are often contested, with the multiple stakeholders - including business, developers, residents and the wider community - frequently holding opposing viewpoints about the key issues and the best solution (Jones et al., 2005). In recent years, however, the participatory process of social impact assessment (SIA) has received significant attention as a way to mitigate conflict, facilitating negotiation and conflict resolution. For example, in a Finnish case study, Peltonen and Sairinen (2010) recently documented the value of an inclusive SIA process in reducing land use conflicts. Thus, utilising 10 cases from the Queensland Planning and Environment Court (QPEC) as case studies, this paper explores if and how engagement utilising SIA at an early stage might improve land-use planning and have achieved the same result in a much less adversarial, less expensive and time-consuming environment than a law court. The overarching aim of this paper is to provide evidence from legal cases to illustrate the value of SIA for communities, developers and local governments alike.

2. Social Impact Assessment – definition, current practice and legislation

Although there is no universal definition of SIA, in the context of development assessment, SIA is used to predict the impacts on individuals, groups and communities resulting from changes arising from development. It is defined by the International Association for Impact Assessment as “the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions” (cited in Sairinen & Kumpulainen, 2006). SIA can be an invaluable tool for enhancing the positive effects of development and reducing adverse social impacts that can threaten the viability and sustainability of a development proposal. There are three possible time points for a SIA (pre-conflict, in-conflict and post-conflict), with post-conflict most common and pre-conflict rare as “developers do not adequately understand the potential and scope of SIA to improve proposals prior to decision-making” (Barrow, 2010).

In Australia, SIA is typically implemented through a range of formal legislative arrangements at the state level. In Queensland, these include the *Environmental Protection Act 1994 (EPA)* and the *Integrated Planning Act 1997 (IPA)*, with the IPA emphasizing that a critical component is the “*maintenance of the cultural, economic, physical and social wellbeing of people and communities*”. However, whilst these ensure there is a legislative basis for SIA, to date SIA is still rarely used as an assessment and management tool by developers or local governments (Barrow, 2002; Dale et al, 1997; Lane, 1997; Moon, 1998). The scepticism surrounding the benefits of SIA means local governments face a significant challenge in facilitating the uptake of effective SIA policies and procedures within development proposals. A number of barriers must be overcome in order to effectively incorporate SIA into the development assessment process, many of which are attributable to SIA’s divergence from traditional disciplinary approaches to planning and development and the perception that “hard” or quantitative data is superior to “soft” or qualitative data within SIA (Burdge & Vanclay, 1996).

Social impacts can be difficult to identify, define and measure explicitly; and mitigation strategies are often complex and varied, depending on the nature of the development, the relevant impacts and the affected groups (Barrow, 2002). Effective SIA often requires the collection and analysis of qualitative data and extensive engagement with stakeholders who may have conflicting opinions and perceptions about a development (Burdge & Vanclay, 1996). While there is a range of resources and literature that adequately provide, explain and justify “best practice” guidelines for undertaking SIA, unfortunately, the

current consensus amongst developers seems to be that SIA is a costly bureaucratic exercise of little, if any, practical relevance or value (Thomas & Elliot, 2005). And, although local government planners are motivated to incorporate SIA policy into their assessment process, anecdotal evidence suggests that the key challenge is how to convince developers to undertake or trial SIA in the absence of any “hard evidence” of its worth. Thus, the overarching aim of this paper is to provide evidence from legal cases to illustrate the value and benefit of SIA for communities, developers and local governments alike.

3. Case Study: Social Impacts in the Queensland Planning and Environment Court (QPEC)

3.1. Methodology, Analysis and Findings

The outcomes and judgments of ten recent development related cases in the Queensland Planning and Environment Court (QPEC), which provides an avenue for appeal of decisions made by Councils in development proposals, were utilised as case studies. This research explores the extent to which social impacts have informed legal appeals against local government decisions to either approve or deny development applications. At the time of analysis, a search for “social impact assessment” on Queensland Judgements Database showed no results. Thus, for the purposes of the current study, the search term “social impact” and related terms (e.g., “amenity”, “cohesion”, “community identity”, “health”, “risk perception” “consultation”) were used to identify key cases. A total 845 cases were identified, with ten cases related to different social impacts selected (outcomes of appeals, parties & presiding judges were not considered). Following Sairinen and Kumpulainen (2006), four common social impact categories (Social Amenity, Cohesion of Building, Needs of Social Groups, Risk Perception in Community) were utilised to identify and categorize social impacts relevant to each case. Table 1 in the Appendix outlines key social impacts in each of the ten selected cases, with the social impact categories below illustrating how different social impacts have informed judgments both for and against development assessment decisions (space constraints restrict full descriptions, which are available on request from authors).

3.2. Social Impact Category 1: Social Amenity

In appeals to development application decisions, negative impact on amenity is undeniably the most prevalent complaint relating to the social impact of development proposals and appeared in all ten cases. Visual amenity, noise, dust, illumination/overshadowing, odour and intrusion of privacy resulting from construction and/or subsequent operation of a development are typically considered during the course of development assessment. Interestingly, however, while amenity is undeniably about impacts on people, the discourse of the field may discourage this appreciation in favour of a more technical application that emphasises the built and/or natural environment. Amenity concerns are described as impacts on “properties” (Case 7), “the surrounding area” (Case 4) or “environmental matters” (Case 6). For example, in Case 7 the appellants complaints about building height and visual intrusion provided the impetus for examination of the relevant planning grounds. In this case, comprehensive SIA that included a qualitative assessment of the degree to which the relative minority would be affected by the development may have identified that the most effective mitigation of negative impacts on amenity was either a building design that complied with height restrictions or an alternative outcome acceptable to all stakeholders.

However, judgements about amenity do not always fall in favour of those who assert unacceptable impacts on the surrounding neighbours or community. This is evident in Case 3, where the appeal was based on the character of the proposed two-unit dwelling and issues pertaining to amenity (including privacy, landscaping and building set-backs). The Judge overturned the Council’s decision and ruled in favour of the appellant, but amenity considerations were not disregarded and the conditions (screening of

windows to prevent intrusion of privacy of neighbouring house and preservation/replacement of lost trees and shrubs) reflect mitigation strategies that could have been identified during a SIA.

3.3. Social Impact Category 2: Cohesion of Building with its Surrounds

Closely related to amenity issues, claims to a lack of cohesion between proposed developments and the character of the surrounding area is the second most common argument (invoked by parties in eight of the case study appeals). Issues pertaining to cohesion related to the material use of the development and/or the size, structure and appearance of the building relative to others. Case 8 is an example of weighing up social impacts with planning objectives. Ultimately, the judge's recognition that the proposed hotel would inevitably impact negatively on the amenity of people in neighbouring properties was offset by broader issues associated with "community benefit" and the future "desired character and amenity of the area". A reverse situation arises in Case 2, where the proposed Turkish Mosque was seen to be "out of character with the surrounding area and the reasonable expectations of local residents". In this case, while the building itself was not typical of those intended in a rural-residential area, it was found that it was not inconsistent with *intended* character. In such cases, assessment of social impacts is contingent on both present and future scenarios. Planning intent can instigate and justify development that is recognisably inconsistent with the existing character of an area *if* it will contribute to achieving an alternative desired character. The fact that different views and understandings – whether these be about planning intent or regulation, or simply different judgements about what 'fits' and what doesn't – are often at the heart of development related disputes, highlights the salient role of SIA in development assessment. SIA provides a means to scope and assess relevant social impacts from the perspectives of all stakeholders in conjunction with Planning Scheme objectives and intentions. And, critically, SIA incorporates an effective engagement process can manage and mitigate impacts through a dispute. SIA offers effective engagement oriented to possible consensus, providing stakeholders with an opportunity to weigh up the pros and cons of individual development applications in an informed manner, account of the views and concerns of others as well as relevant legal planning objectives and intentions.

The benefits of community engagement are also particularly clear in Case 9, where appellants did not oppose proposed development of a 30-bed nursing home but objected to the building design which they felt was "out of character with residential nature of the area" (QPEC 008, 2003: 16) and "incompatible with residential amenity" (QPEC 008, 2003: 2). The judge found in favour of appellants and notes that "whether a particular proposal is compatible with the existing environment involves a genuine balancing exercise in which the views of the people living in that area and the area itself are to be properly considered" (QPEC 008, 2003: 38). The engagement process that constitutes a significant component of SIA does this. In this instance, engagement carried out at the beginning stages of the development assessment process may have easily facilitated a design sensitive to residents' expectations.

3.4. Social Impact Category 3: Needs of Social Groups

Need is an issue that frames most development proposals on two levels. First, as the judge in Case 10 states "usually, if there is a demand for something, then there will be a need for it, even if some members of the community may disapprove of that need" (QPEC 041, 2002: [55]). As such, any development can be proposed to fulfil a need of some kind. Second, any development proposal must take into account the needs of particular social groups, such as people with disabilities. However, in terms of development assessment, and indeed SIA, the issue of need becomes more prominent in certain cases. Four of the ten cases selected here directly involved the issue of 'need' as a component of the dispute, which was always invoked by development applicants appealing against City Council's refusal of their applications. In each case, the appellants argued the development was necessary to meet the needs of particular social groups.

In Case 5, need of the local community was invoked to allow construction of a tavern and bottle shop; in Case 1, it was that proposed telecommunication tower fulfilled a technical need for better mobile phone coverage in the area. While the judge acknowledged that “residents and visitors to Caloundra have a planning need for mobile phone reception” (QPEC 085, 2004: [54]), this was not seen to compensate for the negative impacts on the amenity of the local area, including the psychological impacts associated with risk perception. These two cases highlight the context-sensitive nature of social impacts. While the needs of the broader community are inevitably relevant to any development assessment, it should not be assumed blanket need will necessarily prevail over other social impacts or planning considerations.

3.5. Social Impact Category 4: Risk Perception in the Community

Impacts relating to risk perception may be seen to overlap with other social impacts purely on the basis that perception of any future negative impact corresponds with a perception of risk. However, for this articles we have identified ‘risk perception’ as pertaining explicitly to a perceived risk to health. Only two cases raised this issue, Case 1 (mobile tower) and Case 6 (an appeal against council decision to approve a grain ethanol refinery outside the town centre). Of contention was whether an EIS (including sufficient community consultation) had been undertaken, with residents concerned about risks emanating from safety, odours, air pollution and amenity. Interestingly, in this case, some attempt at community engagement was made, although it clearly did not meet residents’ expectations or ally fears. The judge commented that residents complained “about a want of information and open dealing from the Council, but the application process involved at least one public meeting and a long period of deliberation over a period of a year” (QPEC 062, 2004: [17]). Despite ruling in favour of Council’s decision to approve development, the judge noted that the fact that residents concerns may be considered ‘subjective’ in light of expert evidence, “this does not mean they must or should be ignored”. This case stands as a reminder about the *mitigative* purpose of SIA and community engagement. SIA and appropriate engagement c provide a means to mitigate and manage risk perception through their application and their capacity to identify and develop mitigation strategies that can be applied pre- and post-development where necessary.

4. Lessons from Queensland Planning and Environment Court Cases support early SIA

Obviously, there are no guarantees that undertaking SIA, including effective community engagement, will necessarily result in outcomes favourable to a development proposal or avoid court appeals to Council decisions in every instance. However, the ten cases studied here suggest that undertaking SIA has the potential to provide an informed basis for the incorporation of social impacts into the development assessment process. In all of the appeals, the social impacts are often assessed by judges in the same way that an independent SIA might: in each of the cases, judges invoke the premise of ‘balance’ to frame their deliberations and judgements about parties’ claims of positive or negative social impacts. This parallels directly with the task of SIA. It suggests that a move towards appreciating the significance of social impacts in development assessment is necessary and inevitable from a legal perspective. Critically, SIA incorporating engagement provides a means to identify and understand these perceptions, providing all stakeholders with an opportunity to engage in meaningful communication about fears and concerns at an early stage. While this will not necessarily negate these fears completely, it does present a platform through which to share information, show respect for the opinions of stakeholders and potentially identify development alternatives and/or negotiate agreeable solutions outside an adversarial courtroom.

One of the criticisms levelled at the process of SIA in Queensland, Australia and internationally is the lack of understanding, and poor knowledge of the legislative basis for incorporating social dimensions in decision making (Dale et al, 1997; Peltonen & Sairinen, 2010). However, as an analysis of these cases

illustrates, social impacts are often given significant weight in judgements to development assessment appeals. SIA and community engagement provides invaluable tools for assessing and managing social impacts, not only as means to enhance positive and mitigate negative impacts on the community, but also as key forms of risk management for developers and councils alike. This has a number of advantages for all stakeholders particularly through SIA's capacity to either avoid or negotiate agreeable solutions to development-related disputes and subsequent court intervention. Notably, the judgements and outcomes of each of these cases suggest that delaying the inevitable consideration of social impacts which take place in court settings is counter-productive for all involved. Indeed, consideration of negative social impacts informed decisions unfavourable to the development proposal in five of the ten cases that did not favour development proposals and, in three cases, involved Council approvals being set aside. In these cases, SIA would have provided a means to identify conflicts early and identify development or design alternatives or negotiate an agreeable outcome with stakeholders. Judgements in the remaining five cases included imposed conditions where developers were required to change plans to accommodate concerns regarding social impacts. These conditions are ultimately equivalent to mitigation strategies which could have been identified and agreed upon through SIA.

In conclusion, these ten court appeals demonstrate that the experience of social impacts is legislatively and legally significant in the development assessment process. First, the issues in each case are clearly social: incorporating impacts on amenity, the character of an area, the needs of different social groups, perceptions of risk as well as a range of other issues socially relevant to people's lives. Second, the outcomes and recommendations from each case, such as negotiating agreements, modifying plans and accommodating community concerns would have been equally served thorough SIA. Compared to a lengthy and often adversarial court case, SIAs provides the opportunity for community engagement and can be a significantly cheaper, quicker and more cooperative strategy to address, manage and mitigate community concerns. Clearly, as this pattern may be a result of the case study selection, this research should be seen as an important first exploratory step and much more research is needed to test and explore this proposition.

Acknowledgments

We acknowledge research assistants, Jennifer Summerville and Roseanne Germann, for their assistance with this research project, in particular locating and grouping of the legal cases.

References

- Baptist Union of Queensland v Brisbane City Council* [2002] QPEC 041, 01/4728 (Brisbane, Brabazon QC DCJ 18 July 2002), 47 pages.
- Barrow, C. J. (2002). Evaluating the social impacts of environmental change and the environmental impacts of social change: An introductory review of Social Impact Assessment. *Environmental Studies*, 59(2), 185-195.
- Barrow, C. J. (2010). How is environmental conflict addressed by SIA? *Environmental Impact Assessment Review*, 30(5), 293–301.
- Burdge, R J & Vanclay, F. (1996). Social impact assessment: a contribution to the state of the art series. *Impact Assessment*, 14, 59-86.
- Dale, A. P., Chapman, P., & McDonald, M. L. (1997). Social impact assessment in Queensland: why practice lags behind legislative opportunity. *Impact Assessment*, 15, 159-179.
- Des Forges & Kangaroo Point Residents Association v Brisbane City Council* [2001] QPEC 061, 00/4297 (Brisbane, Brabazon QC DCJ 21 September 2001), 69 pages.
- Edwards v Gold Coast City Council* [2004] QPEC 061, 04/0630 (Brisbane, Wilson SC DCJ 29 October 2004), 13 pages.
- Garrad v Brisbane City Council* [2004] QPEC 037 (Brisbane, Skoien SJDC 18 August 2004), 14 pages.

- Ganter v Townsville City Council* [2004] QPEC 058, 04/0019 (Townsville, Wall QC DCJ 8 October 2004), 45 pages.
- Jones C, Baker M, Carter J, Jay S, Short M, Wood C. (2005). Introduction. In Jones, C, Baker, M., Carter J, Jay, S., Short, M, Wood C (Eds). *Strategic environmental assessment and land use planning. An international evaluation*. (pp. 1-13). London: Earthscan.
- Kotku Education and Welfare Society Inc v Brisbane City Council* [2004] QPEC 068, 04/0288 (Brisbane, Wilson SC DCJ 5 November 2004), 20 pages.
- Lane, M (1997). Social Impact Assessment: Strategies for improving practice. *Australian Planner*. 34(2): 100-102.
- Mills v Townsville City Council* [2003] QPEC 008, 02/0396 (Townsville, Wall QC DCJ 21 Mar 2003), 38 pages.
- Moon, B. (1998). Reforming the Queensland land-use planning legislation. *Australian Planner*, 35(1): 24-31.
- Sairinen, R. & Kumpulainen, S (2006). Assessing social impacts in urban waterfront regeneration. *Environmental Impact Assessment Review*, 26(1), 120-135.
- Shannon v Dalby Town Council* [2004] QPEC 062, 04/0831 (Brisbane, Wilson SC DCJ 29 October 2004), 16 pages.
- Telstra Corporation Ltd v Caloundra City Council* [2004] QPEC 085, 03/3533 (Brisbane, Brabazon QC DCJ 10 December 2004), 28 pages.
- Thomas, I & Elliott, M (2005). *Environmental impact assessment in Australia: theory and practice*. (4th ed): Annandale: Federation Press.
- TMP Holdings P/L v Caloundra City Council* [2001] QPE 038, 00/3119 (Brisbane, Quirk DCJ 7 June 2001), 10 pages.

Appendix A: Overview of Selected Court Cases

Table 1. Social Impacts in Selected Queensland Planning and Environment Court Cases 2001-2004

CASE	CITATION	DESCRIPTION	JUDGEMENT
1 OD	<i>Telstra Corporation Ltd v Caloundra City Council</i> [2004] QPEC 085	Appeal resulted from refusal of application to construct a telecommunications tower on Caloundra Golf Course. Telstra Corp. asserted tower needed to ensure better mobile phone reception. At issue was the visual impact of the tower and residential risk perception about harmful emissions.	Appeal dismissed since it received no support from Town Planning Schemes. Key features of the judgement included: 1. that the tower is not “visually integrated into its surroundings” 2. the weight given to public concern about health risks
2 DA CO	<i>Kotku Education and Welfare Society Inc v Brisbane City Council</i> [2004] QPEC 068	Appeal against Council’s refusal for construction of a Mosque and cultural centre. Issues dealt with included need for a place of religious observance for a minority religious group; alleged conflict with planning scheme; whether development was out of character; impacts on residential amenity including visual amenity, noise and lighting; transport.	Appeal allowed yet adjourned in order for parties to permit the preparation of a list of appropriate conditions. Key features of the judgement included: 1. development would meet need of a small religious group and benefit community by encouraging religious and cultural tolerance and diversity 2. Impacts on residential amenity found to be minimal
	<i>Garrad v Brisbane City Council</i> [2004] QPEC 037	Appeal resulted from Council’s refusal to allow a material change of use involving the construction of a two unit dwelling in a Low-Medium Residential Area. Issues considered included character, floor area, privacy, landscaping, building set-back, car parking, building orientation, and pedestrian and vehicular entry points.	Appeal allowed but adjourned to allow parties to seek to agree to appropriate conditions. Key features of the judgement included: 1. that the character of the building adequately satisfies the City Plan’s requirements 2. the imposition of a number of conditions to mitigate/manage impacts on privacy, vegetation and parking concerns.

4 DO	Baptist Union of Qld v Brisbane City Council [2002] QPEC 041	This involved an appeal against Council's refusal to approve a proposal for a church in a semi-rural area. The Baptist Union congregation argued that they needed larger facilities and that they provided services to the local community.	Appeal dismissed based on conflict with the Planning Scheme. Key features of the judgement included: <ol style="list-style-type: none"> 1. Church primarily benefit members of Baptist congregation "small percentage of the population" despite recognition of service it provides community. 2. Negative impacts of development including visual amenity, noise, residents' expectations of character, amenity and impact on local school.
5 DA CO	TMP Holdings P/L v Caloundra City Council [2001] QPEC 038	Appeal against Council's refusal of development of a tavern and bottle shop in Glasshouse Mountains. Respondents contended overdevelopment of the site and raised issues about community 'need' including result in "adverse social impact" including the provision of gaming machines, the viability of the local sports club, visual impacts and noise.	Appeal allowed based on compliance with the Strategic Plan and likely future use of the area. Key features: <ol style="list-style-type: none"> 1. proposal represented a "definite advantage to the area" given current lack of a general liquor licence and high community support for tavern 2. the arguments considered in relation to "adverse social impacts" were deemed too broad, lacking in evidence and resolvable respectively.
6 DA	Shannon v Dalby Town Council [2004] QPEC 062	Appeal contested Council's decision to approve development of grain ethanol refinery in Dalby. The issues considered included potential health risks, Council's failure to consult with community, the absence of an Environmental Impact Statement, impacts on amenity including visual impact, emissions, odour and noise.	Appeal Dismissed since issues found to have been properly raised and addressed through the IDAS process and the involvement of the Environmental Protection Agency. <ol style="list-style-type: none"> 1. concerns about health risks, traffic, noise, visibility etc were unfounded or unwarranted 2. residents' concerns they should not be ignored. However, more weight applied to expert evidence and long-term industrial zoning of area.
7 DO CO	Edwards v Gold Coast City Council [2004] QPEC 061	Council's approval of mixed use multi-storey buildings appealed by neighbours of on grounds of height, setbacks, wall lengths, landscaping, impacts on amenity and character. Respondents asserted "does not create adverse impacts upon neighbouring sites" and were sufficient planning grounds to support it despite conflict with Development Control Plan.	Appeal Allowed due to major areas of non-compliance and conflict with former Development Control Plan. Key features of the judgement included: <ol style="list-style-type: none"> 1. that the proposal "alienated the appellants' property, both physically and aesthetically" and hence, adversely impacts upon the property for present and future use 2. Despite the benefits offered by the mixed use features of the development, more weight was applied its conflict with the preferred character of the precinct
8 DA	Ganter v Townsville City Council [2004] QPEC 058	Appeal resulted from Council's approval of a mixed-use development in a mixed use Townsville district. The relevant issues included urban renewal, height, bulk and scale, traffic and amenity and the cohesion of the building with the heritage character of the local precinct.	Appeal dismissed due to sufficient planning grounds for the proposal, however additional conditions were imposed: <ol style="list-style-type: none"> 1. that the "proposed building is consistent with the desired character and amenity of the area/locality" given the planned urban renewal 2. Conditions imposed to mitigate noise and other amenity and traffic issues seen as having minimal impact.
9 DO CO	Mills v Townsville City council [2003] QPEC 008	Appeal against Council's approval of a 30 bed nursing home. Argument that the development was incompatible with residential amenity of the area, and that the building was over-designed and much larger than necessary for a 30 bed nursing home, despite agreement that a nursing home was necessary and should be placed on the proposed site.	Further hearing of appeal adjourned to allow parties the opportunity to reconsider the design. Appeal formally allowed on 28 th April. Key features of judgement included: <ol style="list-style-type: none"> 1. that the building is out of character with surrounding area and visually intrusive on nearby houses. 2. recognition that amenity relates to the "affect which a proposal will have on the community and the surrounding area" and that "the most important part of the environment is the community"
10 DO CO	Des Forges v Brisbane City Council [2001] QPEC 061	Appeal incited by Council's approval of a material change of use involving construction of three residential towers on river-front land. Appellants was an overdevelopment of the site with unacceptable impacts on visual amenity, acoustic and visual privacy, traffic safety, the easements on the land, and criteria for set out in planning documents.	Appeals allowed. Order that the development approval dated 22 September 2000 be set aside. <ol style="list-style-type: none"> 1. building design did not pay regard to the intensity of the development, boundary clearances, privacy and effects on views hence, the legitimate expectations of residents had not been sufficiently respected. 2. Preceding consideration of the primary amenity issues the judge favoured the developer regarding a number of more 'technical' design/compliance issues.